

Message

From: Tanner, Barbara [Tanner.Barbara@epa.gov]
Sent: 2/22/2019 4:57:43 PM
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Subject: News Articles (For EPA Distribution Only)

BNA DAILY ENVIRONMENT REPORT ARTICLES

EU Proposes Ban on 12 Chemicals for WTO Review

By Stephen Gardner
Posted Feb. 20, 2019, 2:27 PM

ED_002682_00037942-00001

World Trade Organization members have until April 16 to comment on a draft European Union law that would ban 12 hazardous chemicals under the bloc's REACH law.

INSIDEEPA.COM ARTICLES

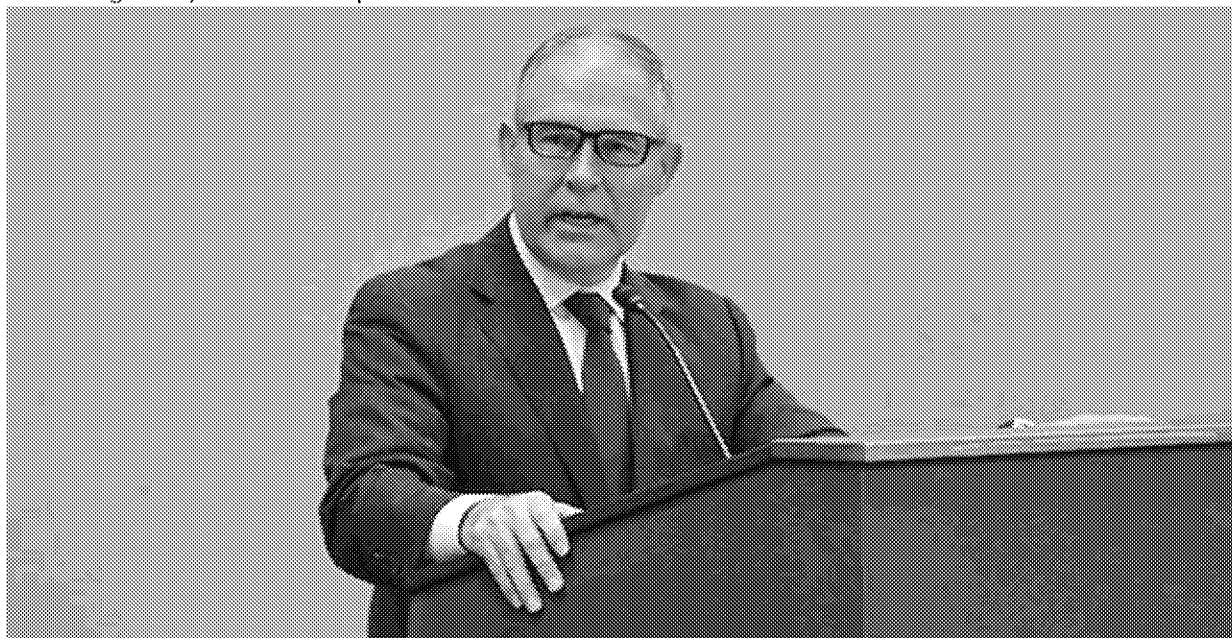
Endangered Deference Doctrine Could End EPA's Streak Of Court Losses

EPA could soon end its losing streak in litigation over rollbacks of Obama-era policies as lawsuits shift from procedural challenges to fights over the merits of rules on which courts often defer to the agency, but that outcome faces a growing threat from conservative federal judges who are looking to narrow or even scrap such deference.

GREENWIRE ARTICLES

Archives: 'Secret' Pruitt calendar claims 'unsubstantiated'

Kevin Bogardus, E&E News reporter



Former EPA Administrator Scott Pruitt. Scott Pruitt/Facebook

Published: Thursday, February 21, 2019

The National Archives and Records Administration has closed its case on allegations that certain meetings were removed from former EPA Administrator Scott Pruitt's calendar, finding the claims to be unfounded.

Media reports that said Pruitt's aides had scrubbed the ex-agency head's calendar of meetings that could prove to be embarrassing if revealed in the press sparked an inquiry from the National Archives last July. EPA responded to the agency that preserves and manages federal documents, denying allegations that records had been destroyed.

The National Archives reviewed EPA's response and decided to move no further.

"Based on this information, NARA considers this allegation of unauthorized disposition to be unsubstantiated," said Chief Records Officer Laurence Brewer in a Jan. 31 letter obtained by E&E News under the Freedom of Information Act.

In an interview with E&E News, Brewer said his agency now considers the matter closed. He said the National Archives is "not an investigative or an enforcement agency for these types of cases" based on its statutory authority.

"We take the action to require the agency to conduct investigations," Brewer said. "We provide oversight. We review the facts provided by the agency through the formal correspondence and we make a determination on the letter to close the case based on the documentation provided."

He noted those determinations are based on not only documentation but proposed corrective actions and information gleaned from meetings and interviews with the agency, which the National Archives assumes "are given to us as representations made in good faith," he said.

Brewer also said the National Archives planned to take no further steps on the case.

"With regard to what we have required the records officer and records management program at EPA to investigate, no. We have contacts through the records program. They take their responsibility very seriously. They conducted their interviews. They met with counsel," he said.

In its response to the National Archives, EPA said in a letter last October that it keeps two calendars for the EPA administrator, a public one posted on the agency's website and an official version maintained in Microsoft Outlook that is more detailed and is released under FOIA. EPA also said it has sought to reinforce best practices when managing the administrator's calendar as well as continuing records training for top officials.

In addition, EPA said some of Pruitt's meetings had been recorded in other documents like emails and travel records, such as with a June 2017 meeting with Cardinal George Pell, a climate science skeptic who had been accused of sexual abuse, in Italy. Further, EPA acknowledged that Pruitt's calendar had been changed but only to more accurately reflect what had occurred (Greenwire, Dec. 10, 2018).

Asked if that raised eyebrows at the National Archives, Brewer said no.

"We did discuss that," Brewer said, adding EPA conveyed in its letter that the agency was ensuring "that there is adequate and proper documentation of what actually transpired to promote greater accuracy and completeness."

"It's essentially calendar management and from the letter they identify other practices they have put in place, including records management training for people who are responsible for maintaining those calendars," he said.

In its letter closing the case, the National Archives reiterated the points raised by EPA, including charges that Pruitt had kept a "secret" calendar.

"Regarding the allegation that EPA kept 'secret' calendars, the EPA conducted a review that included interviews with relevant agency staff and available information sources including the former Administrator's mobile devices," Brewer said in his letter.

"During this review, no information was identified indicating that any calendars other than the Outlook and public calendars ever existed," he said.

Pruitt has since left EPA. He resigned in July facing allegations that he had misused his public office.

Reaction includes disappointment, bewilderment

Kevin Chmielewski, EPA's former deputy chief of staff for operations, said meetings were removed from Pruitt's calendar and that the agency had multiple versions of it.

Chmielewski, who left EPA after clashing with Pruitt, said he was disappointed in the National Archives' determination, which has also been posted on its [website](#).

"For being one of the guys who physically sat in the room and was told to do this, it's disheartening," he said. "You had multiple people who weren't political appointees who knew that this was going on, too."

Chmielewski said he was not contacted by EPA or the National Archives as part of the review of Pruitt's calendar.

Others in EPA had raised objections on meetings being removed from Pruitt's calendar. Madeline Morris, once the agency's executive scheduler, [confirmed](#) to *The New York Times* that she was fired after questioning why meetings were removed from Pruitt's calendar.

Morris declined to comment when contacted by E&E News for this story.

Lawmakers on Capitol Hill also found allegations that Pruitt's calendar had been altered troubling. Reps. Don Beyer (D-Va.) and Ted Lieu (D-Calif.) sent a [letter](#) last July to the EPA Office of Inspector General requesting "an immediate investigation" to see if Pruitt had violated the Federal Records Act.

Aaron Fritschner, a spokesman for Beyer, said it's possible that the IG acknowledged the lawmakers' letter "but we have never had a formal response addressing the concerns raised in the letter."

Asked if the inspector general opened an investigation into allegations that meeting records on Pruitt's calendar were destroyed, EPA IG spokesman Jeff Lagda said, "It is the policy of the EPA OIG to neither confirm nor deny the existence of an ongoing investigation."

Fritschner said there was evidence that Pruitt's aides had tampered with his calendar.

"As to the question of whether the removals were 'substantiated,' there is both the visual evidence of meetings, for instance between Administrator Pruitt and Cardinal Pell in Rome, which the Administrator admitted took place and which were not on his public schedule," Fritschner said.

He also cited the accounts from Chmielewski who described talks by Pruitt's aides to remove meetings or other details from the former administrator's calendar.

"The suggestion that these facts do not represent 'substantiation' is bewildering," Fritschner said.

Meanwhile, Chmielewski suspects that if Pruitt was still at EPA, allegations over how his calendar was mishandled would have been treated differently.

"I think it would be a different case if he was still there. They just want this to go away," he said.

<https://www.eenews.net/greenwire/2019/02/21/stories/1060121753>

Pelosi plans vote to end Trump emergency declaration

[Geof Koss](#), E&E News reporter



House Speaker Nancy Pelosi (D-Calif.) is rallying her caucus to support legislative action against President Trump's emergency declaration. C-SPAN

Published: Thursday, February 21, 2019

The House will vote within weeks to terminate President Trump's emergency declaration that allows the White House to circumvent Congress and redirect federal funding to build a wall along the U.S.-Mexico border, Speaker Nancy Pelosi (D-Calif.) told members yesterday.

Rep. Joaquin Castro (D-Texas) will introduce a **resolution** tomorrow to end the emergency Trump declared last week, Pelosi said in a "Dear Colleague" letter released by her office last night that urged all members to co-sponsor the measure.

Trump's proclamation "undermines the separation of powers and Congress's power of the purse, a power exclusively reserved by the text of the Constitution to the first branch of government," Pelosi wrote.

"The president's decision to go outside the bounds of the law to try to get what he failed to achieve in the constitutional legislative process violates the Constitution and must be terminated. We have a solemn responsibility to uphold the Constitution, and defend our system of checks and balances against the president's assault," she said.

Rep. Betty McCollum (D-Minn.), who chairs the Interior, Environment and Related Agencies Appropriations Subcommittee, echoed the constitutional concerns in a Twitter post announcing her backing for the resolution.

"President Trump's #FakeEmergency undermines Congress' power of the purse," McCollum **tweeted** this morning. "As a Member of Congress, I took a vow to uphold the U.S. Constitution and I take it seriously — so I'm strongly supporting the resolution to terminate this emergency declaration."

Under the National Emergencies Act (NEA), Congress can terminate presidential emergency declarations by simple majority votes in both chambers, although the president retains the power to veto such a resolution.

It may be an uphill fight to win the two-thirds majority necessary in both chambers to override a veto, but if Congress were to even send the measure to the White House, it would be a powerful rebuke of Trump.

Pelosi said the House will move "swiftly" to pass the resolution, which she said will clear committee within 15 calendar days and will receive a floor vote within three additional days, as required under the NEA.

Should the measure pass the House as expected, Senate Republican leaders are powerless to prevent the resolution from coming up for a vote in that chamber.

Assuming the 47 Democratic senators all support the resolution, they would need to pick off four Republicans to rebuke Trump on the emergency.

The White House's decision to not target previously appropriated emergency disaster funds or to redirect monies for Army Corps of Engineers flood-control projects may have helped tamp down defections among Republican lawmakers, although there remains bipartisan unease over plans to shift dollars from military construction accounts for border security (*E&E Daily*, Feb. 15).

At least one GOP senator — Maine's Susan Collins — said she may support the termination resolution if it's focused on Trump's action, which she has said may not pass constitutional muster.

"If it's a 'clean' disapproval resolution, I will support it," Collins said yesterday in Maine, according to the Associated Press.

Sen. Lisa Murkowski (R-Alaska), a fellow moderate who is close to Collins, noted on Twitter her own "serious concerns about this national emergency creating a precedent for expansion of executive authority — something I have taken a stance against previously."

"No president, regardless of party, should do an end run around Congress to advance their policy preferences," Murkowski wrote. "There is a fair question as to whether or not the president has the authority to declare the situation in the southern border a national emergency, but the more relevant question is whether or not we should."

Pushback against Trump's emergency declaration is also taking place in legal proceedings, led by multiple states and backed by major environmental groups (*Greenwire*, Feb. 20).

<https://www.eenews.net/greenwire/2019/02/21/stories/1060121745>

CHEMICAL WATCH ARTICLES

Echa publishes inventory of additives in plastics

Collaborative project yields information on over 400 substances

21 February 2019 / Alternatives assessment & substitution, BPR, Data, Europe, REACH, Substances of concern



Echa has published information on 419 substances used as additives in plastics in the EU.

The agency worked alongside EU member state representatives, academics, Cefic and 21 industry sectors, including additive manufacturers and downstream users, for the mapping exercise.

The plastics value chain was represented by PlasticsEurope and European Plastics Converters (EuPC). For two years, the collaborators screened around 1,000 substances to identify those used as plastic additives in the trade bloc and to validate data on their intrinsic properties.

The initiative, which kicked off in 2016, contributes to meeting the World Summit on Sustainable Development's 2020 goals and to the EU's plastics strategy.

Data provided by industry on substances manufactured or imported at above 100 tonnes per year helped Echa and a team of researchers develop a model to calculate the release potential of each substance into the environment.

The inventory does not provide actual real-life or experimental data, Cefic said – only the relative release potential.

Additives are used in plastics to "impart the essential properties needed to make them fit for their specific purpose and ensure safe use by the consumer throughout the article's service life", Cefic said.

The inventory covers substances used as:

- plasticisers that ensure the flexibility and durability of cables, flooring and roof membranes;
- flame retardants that impart fire-safety properties to electronics and other household items;
- antioxidants that ensure durability and stability of drinking water pipes and other long-life articles; and
- pigments, heat stabilisers, UV/light stabilisers, nucleating agents and antistatics.

It includes information on the polymer types that the additives are most commonly found in and the expected concentration ranges.

Going forward

Together with information on hazard potential, the use and release information will be used by Echa and member states to help prioritise groups of substances for in-depth assessment under REACH.

The project "aims to assist industry in identifying what use and exposure information is relevant to determine safe use for substances in articles and hence trigger a need for updating their registration dossiers", Echa said.

This information should be included in registrations and also communicated down the supply chains, the agency added. "Comparing the release potential of additives with the same technical function can also help in the substitution of hazardous substances with safer alternatives."

Cefic said the inventory is an "important step towards better risk assessment of these substances under REACH and CLP".

Companies will be able to use the inventory to further refine the data about uses and exposure potential in their REACH registration dossiers, it added.

"Cefic and PlasticsEurope members will communicate the inventory to their supply chain to make sure the downstream industries have the right information about the uses of each substance and its properties."

In related news, a report released recently by a group of international NGOs said that plastic and its impact on human health is poorly understood and presents a "global health crisis".

Health-impact assessments have focused solely on the plastic components of products while ignoring the thousands of additives within the plastics and their behaviour at every stage of the plastic lifecycle, it said.



Luke Buxton
EMEA desk editor

Related Articles

- [REACH revolution at a crossroads](#)
- [EU prepares comprehensive microplastics restriction](#)
- [Plastics exposure a global health crisis, says NGO report](#)
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Further Information:

- [Echa press release](#)
- [Additives inventory](#)
- [Cefic release](#)
- [NGO report on plastics](#)

EPA to host TSCA inventory reporting webinar

22 February 2019 / Substance notification & inventories, TSCA, United States

The US EPA is holding a webinar to explain TSCA inventory reporting obligations related to active and inactive substances.

Last week, the EPA released an [updated inventory](#) based on the more than 90,000 notifications it received during its 'inventory reset' exercise.

The updated list identifies 45,573 substances (53% of the total inventory) that are slated to be designated as 'inactive'. Once this takes effect, those substances cannot be manufactured, imported or processed without advance notification.

The EPA's final inventory notification rule, however, contained a provision designating a 90-day period for manufacturers and processors to react to an inactive substance identification before the designation takes effect by filing a forward-looking notification (Notice of Activity Form B). These forms will also be used to notify the agency of future plans to begin resuming use of an 'inactive' substance.

On the 13 March webinar, the EPA plans to provide an overview of how to file a NOA Form B and review of the electronic reporting system. Time will also be set aside for questions and answers.

Related Articles

- [EPA releases updated TSCA inventory](#)
- [US EPA sets TSCA 'inventory reset' rule in motion](#)

Further Information:

- [TSCA inventory site](#)

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